

From: "David L Penney" <ep7@xmission.com>
To: "Daron Haddock" <daronhaddock@utah.gov>
Date: 12/7/2005 9:58:40 AM
Subject: Re: Extension

* 5/027/024
5/001/035
CC: CO files

Dear Darron,

As you have advised we are asking for an extension of time, and are requesting an informal hearing. We want a resolution to this matter as well. Thank you for your advice and your expertise.

Best Regards,

David Penney

----- Original Message -----

From: "Daron Haddock" <daronhaddock@utah.gov>
To: <ep7@xmission.com>
Cc: "Lynn Kunzler" <LYNNKUNZLER@utah.gov>; "Mary Ann Wright" <MARYANNWRIGHT@utah.gov>; "Tom Munson" <TOMMUNSON@utah.gov>
Sent: Tuesday, December 06, 2005 4:28 PM
Subject: Re: Extension

Dear Mr. Penney,

Thank you for your reclamation work at the Little Spot mine. Lynn Kunzler was pleased with the work you had completed and your cooperation during the recent seeding of the site. Most of the issues associated with the Cessation Order at the site have now been addressed. The one remaining issue is with the reclamation bond for the site. While you have indicated that you have a bond with the BLM for this site, we do not feel that it is adequate. The BLM informs us that only \$9800 is allocated to the Little Spot Mine. Also the Division of Oil Gas and Mining is not named as a beneficiary on that bond. The cessation order (which is still outstanding) required you to post a \$40,000 bond. Given the recent reclamation work we would be willing to reduce the required amount to \$20,000. This means that you would still need to post an additional \$10,200 in reclamation bond either with us or the BLM and we would still need to be named on the surety currently held by the BLM.

5/027/024

Now with regard to the Sliver 1-2 mine site and Mr. Trumans Independence Claim, we understand why you may not feel responsible for conducting reclamation on someone else's private property, however, we have evidence linking you to the disturbance that was made on Mr. Truman's property. I have talked with both Tom Munson and Ed Ginouves (BLM) who both witnessed you mining at the site. This makes you an operator responsible for reclamation. The only way this mine site can remain unreclaimed, is if it had an active permit on it. Since there is no permit and no application for a permit, the site must be reclaimed and you are responsible to do so. We agree that your site (Sliver 1-2) which is less than an acre can remain unreclaimed because it is covered by your active permit. We also understand that there may be right of entry issues that may need to be worked out with Mr. Truman to complete the reclamation and we are willing to work with you and Mr. Truman as needed. This is why we are willing to extend the abatement timeframe on the outstanding cessation order.

You indicated in your email that you did not need an extension, but it

appears that both cessation orders are still outstanding. The abatement due dates are tomorrow, December 7, 2005. Since the CO's are not abated you will need an extension of time in order to avoid receiving failure to abate cessation orders. We have already discussed the reason you do not want to go there. I suggest that you apply and show good cause for receiving an extension for both Cessation Orders.

Lastly, it appears to me that we just keep arguing about the same issues with these orders and we are not moving toward resolution. You may want to request an informal conference as outlined in R647-7-106 so that we can get things resolved. An informal conference would give you the opportunity to present your case before a hearing officer in an informal setting. If you really don't feel that you are responsible for reclamation and the Cessation Order was not warranted, you should request the conference so the hearing officer can make the determination. Please let us know what you plan to do with regard to these two outstanding cessation orders. Thanks.

Please call if you have any questions.

Sincerely,
Daron R. Haddock
Permit Supervisor

>>> "David L Penney" <ep7@xmission.com> 12/5/2005 2:13 PM >>>
Dear Mr. Daron Haddock

As discussed per our phone conversations the week of November 28, I had spoken with Mr. Truman concerning this issue. Since Truman is the land owner (Independence Claim), he has told me that he does not want it reclaimed.

I do not need and extension granted, since I am not the permittee or operator of Mr. Truman's private land (Independence Claim).

My permit for Sliver 1-2 are still active mining claims and are under 1 acre of disturbance. It is obvious by my bond amount for Sliver 1-2 that my claim and Mr. Truman's private Land (Independence Claim) that these are entirely separate entities, which should be treated as so.

Thank you for your assistance.

Best Regards,

David Penney
----- Original Message -----
From: "Daron Haddock" <daronhaddock@utah.gov>
To: <ep7@xmission.com>
Sent: Wednesday, November 30, 2005 4:17 PM
Subject: Re: Extension

November 30, 2005

Mr. David Penney
2400 East 30 South

Box 312
Beaver, Utah 84713-0312

Subject: Extension of Abatement Time, Penney's Gemstones, Sliver 1-2,
MC-2005-04-05, S/001/035, Beaver County, Utah

Dear Mr. Penney:

As requested in our phone conversation of November 29, 2005, I am writing this letter to indicate the Division's willingness to extend the abatement requirements for Cessation Order MC2005-04-05. You indicated the difficulty in obtaining either a lease from Mr. Truman or his permission to enter the property for reclamation purposes. In light of this situation, the Division would be willing to entertain a request for an extended abatement period in order to allow the time necessary to resolve the situation with Mr. Truman and either make arrangements to permit the site or reclaim the site.

I must emphasize that it is incumbent on you to request the extension and show good cause as to why the extension is necessary. When dealing with extensions that go beyond 90 days, rule R647-6-102.2.17.112 states, "The permittee or operator will have the burden of establishing by clear and convincing proof that he or she is entitled to an extension under R647-6-102.2.16 and R647-6-102.2.17."

As stated previously, our records indicate that you have mined in this area and are responsible for much of the disturbance at this site even though you may not have had right-of-entry to this property. This being the case you are responsible for reclamation of the disturbance you have created. We had hoped that you could make the necessary arrangements with Mr. Truman to complete the reclamation. If this is not possible we will be happy to work with you and Mr. Truman so that an arrangement for reclamation of the site can be made.

I am awaiting your request. If you have any questions please contact me at 801-538-5325.

Sincerely,

Daron Haddock
Permit Supervisor
Minerals Regulatory Program

>>> "David L Penney" <ep7@xmission.com> 11/30/2005 10:46 AM >>>

CC: "Tom Munson" <tommunson@utah.gov>, <MARYANNWRIGHT@utah.gov>,
<LYNNKUNSLER@utah.gov>